

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of: **Hiroshi MORI et al.**

Art Unit: **2442**

Application Number: **10/654,926**

Examiner: **Esther Benoit**

Filed: **September 5, 2003**

Confirmation Number: **5473**

For: **DATA DISPLAY UNIT FOR FIELD DEVICES**

Attorney Docket Number: **031062**

Customer Number: **38834**

REQUEST TO WITHDRAW FINALITY OF OFFICE ACTION

AF

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

June 15, 2009

Sir:

It is respectfully requested that the "final" status of the Office Action mailed May 11, 2009 should be withdrawn because the final rejection is premature under the guidelines of the Manual of Patent Examining Procedure (MPEP) §706.07. As stated in the MPEP §706.07(a), second paragraph, "Under present practice, second or any subsequent actions on the merits shall be final, except where the Examiner introduces a new ground of rejection that is neither necessitated by Applicants' amendment of the claims nor based on information submitted in an Information Disclosure Statement filed during the period set forth in 37 CFR §1.97(c) with the fee set forth in 37 CFR §1.17(p)."

It is submitted that the final Office Action mailed May 11, 2009 issues a new ground of rejection under 35 U.S.C. §103 that was not necessitated by applicants' amendment of the claims. Applicants' amendment of the claims merely incorporated dependent claim 2, which had already been examined, into independent claim 1.

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Art Unit: 2442

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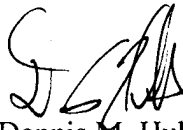
Further, the amendment has **not** changed the scope of the claims. That is, dependent claims 3-8 already depended from claims (1+2) before the amendment on January 21, 2009. This is because claims 3-8 were multiple dependent claims depending from either claims 1 or 2. (Claim 2 depended from claim 1.)

As such, a new search was not necessitated by applicants' amendment. Applicants submit that the new ground of rejection was not necessitated by applicants' amendment and accordingly, respectfully ask the Examiner to withdraw the finality of the current Office Action

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP



Dennis M. Hubbs

Attorney for Applicants
Registration No. 59,145
Telephone: (202) 822-1100
Facsimile: (202) 822-1111

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